

Message Text

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PAGE 01 USUN N 01913 112140Z
ACTION L-03

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FM USMISSION USUN NEW YORK
TO SECSTATE WASHDC 1305
INFO AMEMBASSY MOSCOW

LIMITED OFFICIAL USE USUN NEW YORK 01913

E.O.11652: N/A
TAGS: PDIP, UR
SUBJECT: SUIT FILED AGAINST SOVIET MISSION OVER
MALIK AUTO ACCIDENT OF MARCH 14, 1976

REF: STATE 109659

1. MISSION IS SERIOUSLY CONCERNED THAT POSITION TAKEN
IN REFTEL WILL PLACE RELATIVELY HEAVY BURDEN ON UN
MISSIONS. WHILE WE RECOGNIZE TROUBLE AND EXPENSE OF
HIRING LOCAL COUNSEL WILL NOT BE UNDULY BURDENSOME
FOR LARGE AND EXPERIENCED MISSIONS LIKE USSR, WE
BELIEVE MANY OF THE SMALLER MISSIONS WOULD FIND
HIRING LOCAL COUNSEL TO ASSERT THEIR IMMUNITY UNDULY
BURDENSOME AND EXPENSIVE.

2. HIGHLY LITIGIOUS NATURE OF NEW YORK COMMUNITY
CAUSES US TO FEAR THAT SUITS AGAINST MISSIONS MAY
NOT BE SUCH ISOLATED EVENTS -- PARTICULARLY IF IT
BECOMES KNOWN THAT SUCH A SUIT CAUSES TROUBLE AND
EXPENSE TO A MISSION. EXISTENCE OF UN HOST COUNTRY
RELATIONS COMMITTEE TO WHICH MISSIONS CAN COMPLAIN
AND SYMPATHY WITH WHICH SUCH COMPLAINTS WOULD BE
RECEIVED BY GREAT MAJORITY OF COMMITTEE UNDERLINE
OUR CONCERN.

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3. MISSION WOULD CONSEQUENTLY APPRECIATE DEPARTMENT'S
RECONSIDERATION OF APPLICATION OF PROCEDURAL ASPECTS
OF PL 94-583. IN ITS RECONSIDERATION DEPARTMENT
MIGHT WISH TO GIVE PARTICULAR CONSIDERATION TO THE
FOLLOWING: (A) THE UN CHARTER, THE UN CONVENTION ON
PRIVILEGES AND IMMUNITIES AND THE HEADQUARTERS

AGREEMENT DO NOT SPEAK OF MISSIONS; THE CHARTER STATES THAT "REPRESENTATIVES...SHALL ENJOY SUCH PRIVILEGES AND IMMUNITIES AS ARE NECESSARY FOR THE INDEPENDENT EXERCISE OF THEIR FUNCTIONS IN CONNEXION WITH THE ORGANIZATION", SECTION 15 OF THE HEADQUARTERS AGREEMENT ALSO SPEAKS OF THE STATUS OF "REPRESENTATIVES AND THEIR STAFFS" AND CONSEQUENTLY IMMUNITY OF SMUN IN SUBJECT SUIT MIGHT BE VIEWED AS MATTER OF IMMUNITY OF REPRESENTATION AND THUS NOT NECESSARILY WITHIN THE SCOPE OF PL 94-583.

(B) PL 94-583 DOES NOT DEAL WITH INTERNATIONAL ORGANIZATIONS OR REPRESENTATION THERETO. (C) UNLIKE EMBASSIES IN WASHINGTON UN MISSIONS ARE MOST UNLIKELY TO ENGAGE IN ANY COMMERCIAL ACTIVITY -- WE ARE UNAWARE OF ANY SUCH ACTIVITY IN THE THIRTY-TWO YEARS OF THE UN'S EXISTENCE SO PROBLEM TO WHICH PL 94-583 IS ADDRESSED IS NON-EXISTENT HERE. (D) UN MEMBERS HAVE NOT ENTERED THE US AS AN EXERCISE OF FREE WILL TO DEAL WITH USG IN SAME WAY AS WASHINGTON EMBASSIES BUT ARE HERE ONLY BECAUSE IT IS SITE OF UN HEADQUARTERS. THEY THUS ARE LESS LIKELY TO ACCEPT BURDENSOME PROCEDURAL CONSEQUENCES OF OUR LAWS AND ARE PARTICULARLY APT SUBJECTS FOR CONCERN THAT THEY NOT BE BURDENED MORE THAN IS ABSOLUTELY NECESSARY.

4. MISSION WOULD GREATLY APPRECIATE IT IF DEPARTMENT LIMITED OFFICIAL USE

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COULD CONSIDER THESE FACTORS WITH A VIEW TO FINDING A WAY OF RELIEVING LOCAL MISSIONS OF BURDEN OF HIRING ATTORNEYS TO ASSERT THOSE PRIVILEGES AND IMMUNITIES WHICH WE RECOGNIZE THEY POSSESS. YOUNG

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